

Because it is my belief that Congress with this bill is merely reaffirming the position set out in the Internal Security Act of 1950, 50 U.S.C. 781 et seq., it may be helpful at this point to take a minute to review the declared purposes of that act. Without laboring over each provision, it seems fair to say that with the act Congress, aware of the situation of the world, aware of the capabilities of our enemies, aware of the length to which enemies might go in an attempt to destroy our institutions, and aware of the value to our enemies of certain of our information, outlined in this act a program for combating internal subversion. Of concern to our discussion today was part of the program with which Congress intended to exclude from employment in defense facilities those persons found to be members of a Communist-action organization. Such persons, the act provided, were subject to criminal penalties if they remained in designated employment.

Also of interest to us today was the idea expressed, though the act did not speak in specific terms with regard to this matter, that those awarding contracts of a sensitive nature be able to screen those employees likely to have dealings with classified material.

And thirdly, of concern to us today was that measure adopted in the same year as the Internal Security Act of 1950, the Magnuson Act, 50 U.S.C. 191 et seq., which had as its purpose the prevention of sabotage of our port facilities. Though that act did not specifically adopt procedures for the screening of employees, it is my understanding that the Congress clearly had this in mind when it adopted this piece of legislation.

In other words, this bill asks the Congress to do nothing new. It does request the Congress to sharpen the technical language found objectionable by the Supreme Court to retain the overall objectives envisioned in the 1950 acts.

This being our objective, let us review the Court's objections to the earlier provisions and our proposals to overcome these objections.

Apparently not excluding the possibility that some narrowly drawn legislation aimed at keeping "from sensitive positions in defense facilities those who would use their positions to disrupt the Nation's production facilities," the Supreme Court in *United States v. Robel*, 389 U.S. 258 (1967), held that the present statute swept too widely, catching in its net not only those persons for which the bill was designed, but also persons in nonsensitive positions who were only passive members of such organizations. Our bill would limit the definition of defense facility in order to limit the inclusion to only those actually in sensitive employment. In addition, our bill would require in criminal proceedings that the prosecution show that the defendant was a member of such an organization knowing that it was designated as subversive and knowing that the employment was designated a defense facility.

The Supreme Court, in *Greene v. McElroy*, 360 U.S. 474 (1959) did not challenge the Congress' right to adopt or delegate some form of screening for persons in national defense industry; it merely found that the Department of Defense lacked the necessary authority to operate as they were doing. Our measure would merely give the President the authority with the safeguard that the person involved be allowed the broadest privilege of confrontation and cross-examination consistent with the national interest.

Similarly, with regard to the screening provisions in the Magnuson Act, to protect our vital ports, the Supreme Court in *Schneider v. Smith* on January 16, 1968, found that while Congress had granted broad authority to the President to assure the safety of our port facilities, it had not authorized the screening methods here applied. Our bill, then, adds the necessary authorization.

While the world has changed greatly since 1950, the need to protect our institutions, in particular our defense operations, from internal subversion and sabotage has not changed. For this reason, I urge your serious consideration of this measure.

The CHAIRMAN. This closes our witness list for today, and the committee stands adjourned until tomorrow at 10 o'clock.

(Whereupon, at 11:05 a.m., Wednesday, May 1, 1968, the committee recessed, to reconvene at 10 a.m., Thursday, May 2, 1968.)